

Dated: December 28, 1999.

Nancy-Ann DeParle,

Administrator, Health Care Financing Administration.

Dated: March 28, 2000.

Donna E. Shalala,

Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 87

[ET Docket No. 98-197; FCC 00-353]

Radionavigation Service at 31.8-32.3 GHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Commission's Rules to delete the unused radionavigation service allocation from the band 31.8-32.3 GHz in the Non-Federal Government Table of Frequency Allocations and removes this band from the list of available frequencies set forth in the rules for the Aviation Services. This action will obviate concerns for interference to the reception of deep space radiocommunications in the band 31.8-32.3 GHz from co-channel, non-Federal Government radionavigation transmissions that could otherwise occur in the future.

DATES: Effective November 9, 2000.

FOR FURTHER INFORMATION CONTACT: Tom Mooring, Office of Engineering and Technology, (202) 418-2450.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, ET Docket No. 98-197, FCC 00-353, adopted September 22, 2000, and released September 26, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857-3800, 1231 20th Street, NW Washington, DC 20036.

Summary of the Report and Order

1. This Report and Order amends part 2 of the Commission's Rules to delete

the unused radionavigation service allocation from the band 31.8-32.3 GHz in the Non-Federal Government Table of Frequency Allocations. Consequently, we also amend part 87 to remove this sub-band from the list of available frequencies set forth in the rules for the Aviation Services. We take this action in response to a request from the National Telecommunications and Information Administration. This action will obviate concerns for interference to the reception of deep space radiocommunications in the band 31.8-32.3 GHz from co-channel, non-Federal Government radionavigation transmissions that could otherwise occur in the future. This action will also provide adequate spectrum for future applications of the non-Federal Government radionavigation service in the remaining 1.1 gigahertz at 32.3-33.4 GHz.

2. We adopt our proposal (63 FR 65726, November 30, 1998) to delete the non-Federal Government radionavigation service allocation from the band 31.8-32.3 GHz. This action reduces the amount of spectrum available to the non-Federal Government radionavigation service in this frequency range by approximately 30%. By limiting future non-Federal Government radionavigation services to the band 32.3-33.4 GHz, NASA's deep space operations in the band 31.8-32.3 GHz will be protected and sufficient spectrum will be available to accommodate such commercial and private radionavigation services as may develop in the future. As a consequence of this action, we also will delete the band 31.8-32.3 GHz from the list of frequencies that are available for use by the aeronautical radionavigation service under § 87.173 of the rules for the Aviation Services. Since the band 32.3-33.4 GHz has previously been added to the § 87.173, we are adding a rule part cross-reference to part 87 in the Table of Frequency Allocations.

3. *Final Regulatory Flexibility Certification.* The Regulatory Flexibility Act ("RFA")¹ requires that a regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small

organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration ("SBA").

4. In the *Notice of Proposed Rulemaking*, we concluded that the proposed rules "[would] not have a significant economic impact on a substantial number of small entities." Although no separate comments were received concerning this certification, the only commenter to the proceeding, Mr. Lyman C. Welch, did express concern that this rule change would prohibit commercial use. In this *Report and Order*, we have clarified that commercial entities may continue to make use of the Federal Government's facility at Goldstone, and we therefore find that no small entities will be impacted by the rule change. Accordingly, we hereby certify that the deletion of the non-Federal Government radionavigation allocation at 31.8-32.3 GHz will not have a significant economic impact on a substantial number of small entities.

5. *Report to Congress:* The Commission will send a copy of this *Report and Order*, including this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see 5 U.S.C. 801(a)(1)(A). In addition, the *Report and Order* and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 605(b).

6. Pursuant to the authority contained in Sections 4(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 157(a), 303(c), 303(f), 303(g), and 303(r), parts 2 and 87 of the Commission's Rules are amended; effective November 9, 2000.

List of Subjects

47 CFR Part 2

Communications equipment, Radio.

47 CFR Part 87

Air transportation, Communications equipment, Radio.

¹ 5 U.S.C. 601 et seq. The RFA has been amended by the Contract With America Advancement Act of 1996, Public Law 104-121, 110 Stat. 847 (1996) ("CWA"). Title II of the CWA is the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA").

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2 and 87 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. Sections 154, 302a, 303, and 336, unless otherwise noted.

2. Section 2.1(c) is amended by revising the definition for the “Inter-Satellite Service” as follows:

§ 2.1 Terms and definitions.

* * * * *

(c) * * *

Inter-Satellite Service. A radiocommunication service providing links between artificial satellites. (RR)

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3. Section 2.106 is amended as follows:

a. Pages 74 and 75 of the Table of Frequency Allocations are revised.

b. Footnote US262 is revised.

The revision reads as follows:

§ 2.106 Table of Frequency Allocations.

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30-31 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) Standard frequency and time signal-satellite (space-to-Earth)	30-31 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) Standard frequency and time signal-satellite (space-to- Earth)	30-31 Standard frequency and time signal-satellite (space-to- Earth)	
S5.542	G117		
31-31.3 FIXED MOBILE Standard frequency and time signal-satellite (space-to-Earth) Space research S5.544 S5.545	31-31.3 Standard frequency and time signal-satellite (space-to- Earth)	31-31.3 FIXED MOBILE Standard frequency and time signal-satellite (space- to-Earth)	Fixed Microwave (101)
S5.149	S5.149 US211	S5.149 US211	
31.3-31.5 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive)	31.3-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive)		
S5.340			
31.5-31.8 EARTH EXPLORATION- SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) Fixed Mobile except aeronautical mobile	31.5-31.8 EARTH EXPLORATION- SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) Fixed Mobile except aeronautical mobile		
S5.149 S5.546	S5.340	US246	
31.8-32 FIXED S5.547A RADIONAVIGATION SPACE RESEARCH (deep space) (space-to-Earth)	31.8-32 RADIONAVIGATION US69 SPACE RESEARCH (deep space) (space-to-Earth) US262	31.8-32 SPACE RESEARCH (deep space) (space-to-Earth) US262	
S5.547 S5.547B S5.548	S5.548 US211	S5.548 US211	

32-40 GHz (EHF)			United States Table		FCC Rule Part(s)	Page 75
Region 3			Federal Government	Non-Federal Government		
			32-32.3 INTER-SATELLITE US278 RADIONAVIGATION US69 SPACE RESEARCH (deep space) (space-to-Earth) US262	32-32.3 INTER-SATELLITE US278 SPACE RESEARCH (deep space) (space-to-Earth) US262		
			S5.548	S5.548		
			32.3-33 INTER-SATELLITE US278 RADIONAVIGATION US69		Aviation (87)	
			S5.548			
			33-33.4 RADIONAVIGATION US69			
			33.4-36 RADIOLOCATION US110 G34	33.4-36 Radiolocation US110	Private Land Mobile (90)	